UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

October 14, 2003

Ms. Mona Jefferies-Soniea
Bureau of Reclamation
2800 Cottage Way, MP-700,
Sacramento, CA 95825

Dear Ms. Jefferies-Soniea:

The Environmental Protection Agency (EPA) has reviewed the Notice of Intent to prepare an environmental impact statement (EIS) for the Sacramento River Water Reliability Study; Sutter, Sacramento, and Placer Counties; California. Our review is pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. Our detailed comments are enclosed.

The Bureau of Reclamation and the Placer County Water Agency (PCWA) propose to prepare a joint EIS/EIR in coordination with Sacramento Suburban Water District (SSWD) and the cities of Roseville and Sacramento. The stated purpose of the project is to address long-term needs for additional water supplies in the service areas and to develop a water supply plan consistent with the Water Forum Agreement (April 24, 2000) objectives. These include pursuing a Sacramento River diversion to meet water supply needs of the Placer-Sacramento region and promoting ecosystem preservation along the lower American River.

EPA recently prepared comments for several projects within the study area including the scoping notice for the Freeport Regional Water Project and the Environmental Water Account DEIS. EPA has been involved extensively in both the Central Valley Project Improvement Act and related CALFED projects. EPA agrees that the principles identified in the NOI are positive guidelines for development of the SRWRS. However, we are concerned with the cumulative impacts of induced growth, water quality impacts, and impacts to fish and wildlife resources that may be associated with multiple diversion projects on the Sacramento River. The Draft EIS/EIR should outline the relationship between the Freeport Regional Water Project, the related Water Forum Plan agreements, and the proposed project. It should assure a long-term, sustainable balance between available water supplies, ecosystem health, and water supply demand that incorporates water conservation measures. The cumulative impact analysis should describe other Bureau and non-Bureau actions that would impact water supply and demand and related mitigation measures.

The Reclamation Reform Act requires the Secretary of the Interior to use all existing authorities to encourage conservation and CVPIA Section 3045 encourages use of variable pricing and conservation. The Draft EIS/EIR should evaluate a full range of alternatives, including conservation strategies, and the related environmental impacts. Project history and development should be included in the Draft EIS/EIR. Any related impacts to surrounding communities or Indian Trust Assets should be evaluated.

The United States Environmental Protection Agency (EPA) has developed guidelines under Section 404(b)(1) of the CWA (33 U.S.C. 1344) to restore and maintain the chemical, physical, and biological integrity of waters of the United States through the control of discharges of dredged or fill material to these waters. Under the Section 404 program, the U.S. Army Corps of Engineers (Corps) is the principal permit issuing authority, while EPA provides program oversight. Although integration of Section 404 with NEPA is not required for water supply projects, we recommend the Draft EIS/EIR evaluate if any of the action alternatives would require a CWA Section 404 individual or general permit.

The NOI states that the EIS/EIR will build on background data and analyses contained in the American River Water Resources Investigation (ARWRI) EIS and the Water Forum Agreement EIR. The Draft EIS/EIR should disclose what background data and analyses have been incorporated from these project analyses. It should also support the rationale behind the use of this information and its consistency with CEQ=s requirement that EISs present the best available data. In the interim, various project operations changes and flow actions have been implemented through CALFED and other programs. Newly updated water supply/operations models are available presently that were not used in the ARWRI analysis, and new information on water management measures such as conjunctive use, recycling, and conservation has been developed through CALFED and the State Water Plan. The Draft EIS/EIR should consider using more recently updated models and analyses in the decision-making process. When references to previous documents are used, the DEIS should provide a summary of critical issues, assumptions, and decisions complete enough to stand alone without reliance on reference to other documents.

Please send three copies of the Draft EIS/EIR to this office at the same time it is officially filed with our Washington D.C. Office. If you have questions, please contact my staff assigned to this project, Summer Allen, at 415-972-3847 or allen.summer@epa.gov.

Sincerely,

Lisa B. Hanf, Manager
Federal Activities Office
Cross Media Division

Enclosure: Detailed Comments
cc: Steve Yaeger, PCWA

DETAILED COMMENTS

Analysis of Alternatives

We recommend the Draft EIS/EIR include a clear description of the basic project needs. Project purposes and alternatives should follow from these underlying needs. Although the study defines alternatives limited to alternative water diversion sites, it is possible that the purpose and need could also be addressed, at least in part, through measures such as conservation, recycling, and additional regional conjunctive management of surface and groundwater supplies. The Draft EIS/EIR should implement conservation performance requirements and assurances for certain levels of conservation.

The alternatives proposed in the *Sacramento River Water Reliability Study* (*Study*) focus on water diversions at alternative sites, alternative construction methods, and alternative operational criteria that may affect jurisdictional waters. Water conservation measures are some of the most important methods for providing impact avoidance, can substantially reduce the demand for water, and do not include discharging dredged or fill material to waters of the United States. Examples of water conservation measures include: installing gray water systems for selected domestic uses (e.g., hoses, sprinkler systems, toilets), pricing strategies for agriculture and industry, and economic incentives for a number of household appliances and fixtures that maximize water conservation (toilets, washing machines, dishwashers).

Water Measurement and Pricing

EPA recommends the consideration of water measurement devices to further water conservation. Although we understand that there is debate regarding appropriate measurement or metering requirements, the Draft EIS/EIS should clearly state which measurement devices or metering requirements are considered by Reclamation to be appropriate for this project and the water measurement practices used by other local project participants as well.

It has been demonstrated over the last decade that variable pricing of water can significantly influence water demand and supply. Pricing which accurately reflects the economic and environmental costs of water increases the ability to ensure scarce supplies are used efficiently. The Draft EIS/EIR should include an in-depth discussion of pricing and how it will be utilized by the project proponents to help balance water demands and water supply, including conjunctive management of surface and groundwater.

The Draft EIS/EIR should address the measurement and management of the combined resources of surface and groundwater quality and supplies to stabilize supplies over the long term. We suggest the Draft EIS/EIR document the potential for conjunctive use associated with this project, particularly to avoid surface diversions during environmentally sensitive periods. Sufficient information should be disclosed about the objectives, requirements, and suitable locations for conjunctive use so that potential impacts can be fully evaluated.

Impact Analysis

The Draft EIS/EIR should describe potential direct, indirect, and cumulative impacts to the environment and propose mitigation for these impacts. The environmental impacts of the proposed alternatives should be presented in comparative form to sharply define the issues and provide a clear basis for choice among options for the decision maker and the public (40 CFR 1502.14). The Draft EIS/EIR should discuss the extent to which water quality and sensitive or unique habitats, if any, can be protected and improved.

The Draft EIS/EIR should include a specific evaluation demonstrating that the proposed Sacramento River Water Reliability Study is consistent with the goals of existing and ongoing efforts to restore the San Francisco Bay Delta, Sacramento River, and American River ecosystems. The document should evaluate the expected effects on American River, Sacramento River, and Bay Delta flows. In addition, the evaluation should clearly demonstrate that diversions and/or changes in flows in the Sacramento River, particularly during sensitive months and drier years, do not hinder riparian and fish restoration efforts or conflict with actions to improve and maintain water quality standards in the Sacramento River and San Francisco Bay Delta.

The evaluation of direct, indirect, and cumulative impacts should address the following:

- Potential effects on surface and groundwater quality. The Draft EIS/EIR should include CALFED policy and current discussions regarding monitoring and protecting water quality for drinking water and other uses.
- Potential effects on second and third parties.
- Potential effects of the proposed quantity and schedule of water diversions.
- Potential growth-inducing effects. Because water is a limiting resource in the project area, EPA recommends evaluating the potential effects of the proposed water project on future industrial, commerical, and residental development.

Project History and Related Projects

The Draft EIS/EIR should clearly describe the history and interrelationships of the various water supply planning efforts by Placer County Water Agency and the other local partners. Summaries of previous environmental reviews that describe the proposed actions, alternatives, underlying assumptions, and their conclusions should be included in the Draft EIS/EIR. The goal is to clearly describe the historical context for the current water supply proposal and identify projects which have been already evaluated and eliminated.

The Draft EIS/EIR should describe in detail the relationship of the current action with the Water Forum Agreement, plans and projects pursuant to the Forum Agreement, and with CALFED. The Draft EIS/EIR should ensure that the decision to provide additional diversions from the Sacramento River is consistent with, and supports, CVPIA and CALFED Bay-Delta Program goals and proposed actions. The Draft EIS/EIR should document the relationship of these actions with the draft long term Central Valley Project water contracts, such as the Sacramento Canals Environmental Assessment of August 2003.

Water use efficiency is a major component of the CALFED Program, thus close coordination with CALFED agencies will be necessary to ensure consistency, where appropriate, in methodologies for computing efficiencies and benefits, and to ensure complementary objectives. The Draft EIS/EIR should briefly describe current and historical litigation, agreements, and the underlying assumptions, water rights, and legal mandates, such as Public Law 106-554, of the proposed water supply actions and alternatives.

Tribal Impacts

The Draft EIS/EIR should fully analyze the impacts of the proposed action on the United Auburn Community Indian Trust Assets located in Placer County. Any association between the assets and the proposed action alternatives should be fully documented and subject to public comment. In keeping with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (EO 12898), the DEIS should describe the measures taken to:1) fully analyze the environmental effects of the proposed Federal action on minority communities, e.g. Indian Tribes, and low-income populations, and 2) present opportunities for affected communities to provide input into the NEPA process.

The Draft EIS/EIR should document the consultation process with the affected tribes before the transfers are finalized in order to minimize effects to those assets. We recommend that Reclamation consult with the potentially affected tribes so that the Draft EIR/EIS includes specific information regarding the identified levels of concern on tribal lands. This would not only provide appropriate information in the EIR/EIS on the potential impacts of the proposed project on Indian trust assets, but facilitate in a timely manner the implementation of other diversion activities in these areas when they are selected in the future.

Wetlands: Section 404 of the CWA

The Draft EIS/EIR should identify impacts to water, floodplains, and wetlands, including identification of Section 404 Clean Water Act (CWA) requirements, and management and mitigation proposals to ensure compliance with these requirements. The Sacramento River Diversion Project Feasibility Study concludes that implementation of the project as proposed would require a Section 404 permit for activities that place fill within the waters of the United States. The aquatic resources in the Sacramento River watershed provide many important services. However, water supply projects and flood control efforts over the past 150 years have altered the Sacramento River and contributed to the extinction of native fishes, and the loss of over 95% of native riparian forest, and over 90% of historical wetlands[1]. Compliance with the

[1]SJVDP, San Joaquin Valley Drainage Program (1990).

Guidelines requires the applicant to provide information demonstrating that their preferred project alternative is the least environmentally damaging practicable alternative (LEDPA) (40 CFR 230.10(a)) among a reasonable range of alternatives.

Identification of the LEDPA is achieved by performing an alternatives analysis that estimates direct, secondary[2], and cumulative[3] impacts to jurisdictional waters resulting from project activities for a given set of on- and off-site alternatives. Secondary impacts are particularly important in water supply projects that involve diversions because it is often not the direct footprint of the diversion that causes the most harmful impacts, but the extraction of water, the alteration of flow patterns, and changes in habitat quality affecting the biological and physical integrity of waters and wetlands. For example, reducing flows in rivers may increase water temperature and contribute to the decline of native fish populations including listed species. Similarly, evaluating cumulative impacts is essential to fulfilling the requirement to avoid impairments to water quality and aquatic ecosystems (40 CFR 230.11(g)).

The Notice of Intent/Notice of Preparation for the *Sacramento River Water Reliability Study* (*Study*) indicates that the *Study* will determine the magnitude of impact that constitutes a "significant" environmental impact. The Guidelines specifically address significant degradation (40 CFR 230.10(c)) and include loss of fish and wildlife habitat or loss of the capacity of a wetland to assimilate nutrients or purify water (40 CFR 230.10(c)(3)) as significant adverse effects of the discharge of pollutants on aquatic ecosystem diversity, productivity, and stability. These definitions should be included in the method for determining significance.

Compliance with the Guidelines requires the applicant to compensate for unavoidable losses of aquatic resources after avoidance and minimization of impacts has been achieved. A compensatory mitigation plan should outline the strategy for replacing the functions and values of aquatic resources lost due to direct, secondary, and cumulative impacts. The 2002 Mitigation Regulatory Guidance Letter[4] (RGL 02-2), emphasizes the importance of watershed based analysis, self-sustaining hydrology, and on-site, in-kind mitigation.

The Council on Environmental Quality (CEQ) addresses how mitigation should be presented in Environmental Impact Statements (EISs) prepared pursuant to NEPA. In a 1981 Memorandum to Federal Agencies, AForty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations,@ CEQ informs Federal agencies to ensure that EISs consider mitigation for all impacts, even if a specific impact is not considered to be Asignificant.@ Within CEQ=s framework, a variety of feasible mitigation may reduce impacts from the project=s construction and operation. Consistent with CEQ=s AForty Questions,@ the

[2]Secondary effects: [40CFR230.11(h)]

[3]Cumulative impacts:[40CFR230.11(g)]

4U.S. Army Corps of Engineers(2002)

Final EIS (FEIS) should present mitigation, where feasible, to reduce impacts associated with the project even when such impacts are not considered to be Asignificant.@